S.B. CIVIL MISC. APPEAL NO. 738/2007.
(Bhama Ram & Ors. Vs. Sawai Singh & Ors.)

Date of Order :: 2nd March 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Arjun Ranga for Mr. K.L. Chouhan, for the appellants.

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This appeal for enhancement has been submitted by the claimant-appellants Bhama Ram, his daughters Kamla and Kalmi and sons Madan Lal and Suresh, against the common award dated 27.09.2005 made by the Motor Accidents Claims Tribunal (I), Jodhpur insofar it relates to Claim Case No.22/2005 whereby the Tribunal has awarded compensation the sum of Rs.3,61,400/- on account of accidental death of Smt. Lichhu Devi (about 30 years), wife of the appellant No. 1 and mother of the appellants Nos. 2 to 5.

For quantification of compensation, the Tribunal has noticed the assertion of the claimant-husband that the victim was earning about Rs. 100/- per day in tailoring job and as a labourer, but for want of cogent evidence has estimated her income at Rs. 1,500/- per month and providing for a component of enhancement in future, has taken her average income at Rs. 2,400/- per month; and with application of

multiplier of 17 after deducting one-third on personal expenditure has assessed pecuniary loss at Rs. 3,26,400/- (1600 x 12 x 17); and allowing further Rs.10,000/- towards funeral expenses and Rs.25,000/- towards non-pecuniary loss, has made the award aforesaid in the sum of Rs.3,61,400/- and has also allowed interest @ 7.5% per annum from the date of filing of the claim application.

By the impugned award dated 27.09.2005, the Tribunal has proceeded to decide 9 claim applications related with the same accident together; and it is noticed that for demise of another son of the appellant No. 1, named Dana Ram and allegedly carrying alias of Suresh, a separate claim for compensation was made by the appellant No. 1 (Claim Case No.21/2005) wherein the Tribunal has awarded compensation in the sum of Rs.1,65,000/-; and yet another claim application was made by the claimant Bhama Ram and his daughter Kalmi for compensation for the injuries sustained by the said daughter, Kumari Kalmi, about 7 years in age years (Claim Case No.144/2005) wherein the Tribunal has awarded compensation in the sum of Rs.4,000/- for one injury.

Having heard learned counsel for the claimant-appellants, having perused the impugned common award dated 27.09.2005, and having considered the totality of circumstances, this Court is satisfied that the instant appeal

for enhancement of amount of compensation remains bereft of substance and does not merit admission.

In the fact situation of the present case, the award of compensation in favour of the appellants at Rs.3,61,400/- together with interest @ 7.5% per annum could only be said to be rather on the higher side ruling out any scope for enhancement. The Tribunal, despite finding that there was no cogent evidence available on record has not only put an estimate on earning of the deceased at Rs. 1,500/- per month but has even provided for a component of so-called future prospects though the deceased was not in settled job, rather she was not in any job at all. The resultant multiplicand based on assumed loss of dependency at Rs. 1,600/- per month stands only in excess than reasonable. Then, the Tribunal has applied maximum side multiplier of 17. Claim for enhancement over the liberal award made by the Tribunal remains wholly meritless.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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